



CITY OF SUNNYVALE

Report to Planning Commission

November 24, 2003

**SUBJECT: Amendment to Chapter 19.98 of the Sunnyvale
Municipal Code Related to Signature Requirement on
Land Use Applications**

REPORT IN BRIEF

Section 10.98.020 of the Municipal Code requires that an application for a permit be signed by the owner of the land to which the permit would be applicable. An amendment to this section of the Code is recommended which would allow acceptance and processing of permits, under certain circumstances, without the signatures of all property owners, provided that the permit could not be exercised until all property owners agreed.

Background

On August 7, 2003, the Forum Development Group filed an application for redevelopment of the Town Center Mall. Forum has authorization to file the application from the largest property owner, Sunnyvale LLC, but the application is not signed by all other property owners, namely Harvest Partners (owners of the former JCPenney building), Macy's, Target, and the Sunnyvale Redevelopment Agency. It is not unusual in redevelopment areas that a developer will seek entitlement for development of property before there is control of all of the property. In this case, the developer is negotiating with the other property owners to obtain their concurrence or to acquire their property. The developer is willing to begin the long and expensive process of preparing construction drawings before negotiations with the other property owners are completed, but is unwilling to begin this process before he receiving City entitlement (e.g. approval of a Special Development Permit). Section 19.98.20 of the Municipal Code will not allow the City to accept and process the application for a Special Development Permit until the application is signed by all property owners of property to which the permit would be applicable. Four months have passed since the application was filed, and many more months are liable to pass before all property owners join in the application, thus substantially delaying the potential construction and completion of the project.

Existing Policy

Legislative Management Sub-element

Action Statement: 7.3B.3b Consider changes to ordinances to reflect changes in community standards and State and Federal laws.

Section 19.98.20 (a) of the Municipal Code deals with application, and reads as follows:

Consideration of a permit or process is initiated by the filling of an application signed by the owner of the land to which the permit or process would be applicable. The application shall be filed with the director of community development on forms furnished for this purpose. The application shall be accompanied by the required fee, plans, elevations and other supporting data set forth in this section, or determined necessary by the director of community development.

Analysis

It is typical of redevelopment for a developer to prepare a plan for development of property which the developer does not control. Often some of that property is owned by the Redevelopment Agency, which will negotiate with the developer for disposition of the property. A developer is usually unwilling to expend funds for preparation of construction drawings until the developer has obtained both the entitlement from the city and control over the land. Under the present Sunnyvale Municipal Code, a developer is required to undertake these two steps sequentially (i.e., first obtain control of the land and then apply for entitlement). Much time could be saved if these two steps could be undertaken concurrently.

Staff believes that this problem could also arise outside of a redevelopment area. For instance, obtaining the signature of a property owner might be delayed because of extensive travel by the owner, or because the property is being processed through a family trust or probate.

Staff believes that the processing of permit application without the signatures of the owners of all of the properties to which the permit would be applicable should apply to unique circumstances, such as those cited above, including redevelopment projects. Staff recommends that the following conditions be placed on applications to be so processed:

- (1) the applicant has ownership or concurrence from owners of more than 50% of the property involved,
- (2) the applicant notifies by registered mail the other property owners of the intent to file such application at least ten days prior to filing, and
- (3) any approvals granted in such a situation shall not be exercised until the applicant obtains in writing concurrence of all owners of land to which the approvals are applicable.

Fiscal Impact

There is no fiscal impact associated with the proposed amendment to the application regulations and procedures.

Public Contact

Notice of Negative Declaration and Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none">• Published in the <i>Sun</i> newspaper• Posted on the site• Mailed to the property owners and tenants within 300 ft. of the project site	<ul style="list-style-type: none">• Posted on the City of Sunnyvale's Website• Provided at the Reference Section of the City of Sunnyvale's Public Library	<ul style="list-style-type: none">• Posted on the City's official notice bulletin board• City of Sunnyvale's Website• Recorded for SunDial

Alternatives

1. Approve attached ordinance which would amend Section 19.98.020 (a) of the Sunnyvale Municipal Code.
2. Approve attached ordinance with modifications.
3. Do not approve the attached ordinance.

Recommendation

Recommend Alternative 1 to the City Council.

Prepared by:

Robert Paternoster
Director of Community Development

Approved by:

Robert LaSala
City Manager

Attachments: Draft Ordinance

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE AMENDING CHAPTER 19.98 OF THE SUNNYVALE MUNICIPAL CODE RELATED TO SIGNATURE REQUIREMENTS ON LAND USE APPLICATIONS

THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS
FOLLOWS:

SECTION 1. CHAPTER 19.98 AMENDED. Chapter 19.98 of the
Sunnyvale Municipal Code is hereby amended by amending Section 19.98.020(a)
to read as follows:

Section 19.98.020. Applications.

(a) Consideration of a permit or process is initiated by the filing of an application signed by the owner of the land to which the permit or process would be applicable. The application shall be filed with the director of community development on forms furnished for this purpose. The application shall be accompanied by the required fee, plans, elevations and other supporting data set forth in this section, or determined necessary by the director of community development. Notwithstanding the owner signature requirement stated initially, the director may accept an application for processing without all the property owners signatures provided that (1) the applicant has ownership control over more than 50% of the property involved, (2) the applicant notifies by registered mail the other property owners of the intent to file such application at least ten days prior to filing, and (3) any approvals granted in such a situation shall not be exercised until the applicant obtains in writing concurrence of all owners of land to which the approvals are applicable. The applicant must be able to show proof of efforts made to obtain the requisite signature(s) before the director may consider accepting such an application. The decision to accept an application without all property owner signatures shall be at the sole discretion of the director of community development, whose decision shall be final.

(b) – (h) [Text unchanged.]

SECTION 2. EXEMPTION FROM CEQA. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental

Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment. The Council therefore directs that a Notice of Exemption be filed with the Santa Clara County Clerk in accordance with Section 14 of the Sunnyvale Guidelines for the implementation of CEQA.

SECTION 3. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 4. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication once in *The Sun*, the official newspaper of the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on _____, 2003, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on _____, 2003, by the following vote:

AYES:

NOES:

ABSENT:

ATTEST:

APPROVED:

City Clerk
(SEAL)

Mayor